

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 3415 OF 2010
IN
ARBITRATION PETITION NO. 14 OF 2008**

SBICAP Securities Ltd.

...Petitioner

vs

Mrs.Meena Chatterjee

...Respondent

Mr.Abhishek Khare I/b. Bindu Bhatia I/b. Khare Legal Chambers for
Applicant/Orig. Petitioner.

CORAM : S.C.GUPTE, J.

DATE : 20 FEBRUARY 2019

P.C. :

This notice of motion is taken out in a disposed of arbitration petition. The arbitration petition challenged an award dated 19 June 2007 passed by a sole arbitrator. The petition was dismissed by a learned Single Judge. Whilst dismissing the petition, the learned Judge observed that the only point urged on behalf of the Petitioner was that the arbitral tribunal did not take into account relevant documents. The learned Judge noted that when the Petitioner's counsel was asked to point out such relevant documents, he was unable to do so. The learned Judge noted that no documents were produced before the tribunal and there was nothing for the tribunal to consider; it was not the duty of the tribunal to call for any document on its own; it was for the party, who wanted to rely on any document, to produce and prove the same before the tribunal. Since no other point was urged, the arbitration petition was dismissed. The matter was thereafter carried in an appeal before a Division Bench. The Division Bench, by its order dated 8 March 2010, allowed the appeal to be

withdrawn with liberty to approach the learned Single Judge for clarifications, if any. This motion is taken out in pursuance of that liberty.

2 The motion seeks a clarification to suggest that the document to be considered was a statement of account annexed to the Petitioner's reply to its statement of claim and this statement of account was not considered by the arbitral tribunal. It is claimed that this statement was also referred to before the learned Single Judge whilst arguing the arbitration petition for admission.

3 As things stand today, the arbitration petition having been dismissed and an appeal therefrom having been withdrawn, there is no merit in seeking the clarification sought today. Even if this court were to clarify that in fact there was a document before the arbitral tribunal; that document was actually not considered by the arbitral tribunal; and that this aspect was actually brought out by the Petitioner's counsel before the learned Single Judge when he decided the arbitration petition, that takes us nowhere. It has no other fallout besides correcting the order. I am not, therefore, inclined to consider any clarification of the nature suggested by learned Counsel for the Applicant/Petitioner.

4 The notice of motion is dismissed.

(S.C. GUPTE, J.)